

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

TIFFANY RECINOS,

Plaintiff,

v.

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

CASE NO. 3:23-cv-05183-TLF

ORDER DENYING MOTION FOR
RECUSAL (DKT. NO. 145)

I. INTRODUCTION

This matter comes before the Court following referral by United States Magistrate Judge Theresa L. Fricke (Dkt. No. 157) of Plaintiff Tiffany Recinos' motion for recusal (Dkt. No. 145). For the reasons discussed herein, the Court AFFIRMS Judge Fricke's refusal to recuse herself.

II. BACKGROUND

On March 23, 2023, Plaintiff Tiffany Recinos filed a complaint against the Commissioner of Social Security. (Dkt. No. 8.) Plaintiff alleges that the Social Security Administration's decision to deny her claims was "not supported by substantial evidence and/or [wa]s based on

1 legal error.” (*Id.* at 2.) On August 1, 2023, Plaintiff filed the instant motion, requesting Judge
2 Fricke recuse herself from this matter. (Dkt. No. 145.) Judge Fricke refused to recuse herself,
3 finding Plaintiff had failed to allege she had any specific bias. (Dkt. No. 157.)

4 III. DISCUSSION

5 Local Civil Rule 3(f) requires a challenged judge to review motions filed pursuant to 28
6 U.S.C. § 144 or 28 U.S.C. § 455 and to determine whether to recuse voluntarily. LCR 3(f). If
7 the challenged judge declines to recuse voluntarily, they must direct the court clerk to refer the
8 motion to the chief judge for their review. *Id.*

9 28 U.S.C. § 455(a) provides that a judge of the United States “shall disqualify himself” in
10 any proceeding in which their “impartiality might reasonably be questioned.” 28 U.S.C. § 455
11 further provides the judge must recuse “[w]here he has a personal bias or prejudice concerning a
12 party, or personal knowledge of disputed evidentiary facts concerning the proceeding.” 28
13 U.S.C. § 455(b)(1). 28 U.S.C. § 144 similarly requires recusal when “a party to any proceeding
14 in district court makes and files a timely and sufficient affidavit that the judge before whom the
15 matter is pending has a personal bias or prejudice either against him or in favor of any adverse
16 party.” 28 U.S.C. § 144. The standard for recusal under both statutes is the same— “[w]hether a
17 reasonable person with knowledge of all the facts would conclude that the judge's impartiality
18 might reasonably be questioned.” *United States v. McTiernan*, 695 F.3d 882, 891 (9th Cir. 2012)
19 (internal quotation marks omitted). A party must timely move for recusal and “[e]nforcing the
20 timeliness of a recusal motion is necessary to prevent litigants from using § 455(a) for strategic
21 purposes.” *United States v. Mikhel*, 889 F.3d 1003, 1027 (9th Cir. 2018)

22 In her motion, Plaintiff argues “Judge TLF has shown [a] lack of impartiality.” (Dkt. No.
23 145 at 1.) She asks the Court to “put Judge TLF on notice and to Recuse (remove) her from this
24

1 case and possibly just STEP DOWN FROM JUDGSHIP [sic] AND RETIRE” because “Judge
2 TLF refuses to allow justice to be served.” (*Id.*)

3 Plaintiff fails to make specific allegations of bias. She merely states Judge Fricke has
4 “shown [a] lack of impartiality” but provides no evidence as to how she has been impartial. (*Id.*)
5 There being no specific allegations of bias, recusal is not appropriate.

6 **IV. CONCLUSION**

7 Accordingly, having reviewed the Motion and the remainder of the record, the Court
8 hereby AFFIRMS Judge Fricke’s refusal to recuse herself (Dkt. No. 157).

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10 Dated this 5th day of September 2023.

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David G. Estudillo
United States District Judge